

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WILLIAM LOFTUS, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

SIGNPOST INC.,

Defendant.

Case No. 1:19-cv-07984-JGK

**NOTICE OF MOTION FOR
MOTION TO STAY BY
DEFENDANT SIGNPOST, INC.**

PLEASE TAKE NOTICE that upon the accompanying Memoranda of Law, Declaration of William Foster, and Request for Judicial Notice, and upon all the pleadings and proceedings heretofore had herein, and such further pleadings and documents as may be filed, and oral argument as this Court may permit or require, Defendant Signpost, Inc. (“Signpost” or “Defendant”), by and through its undersigned counsel, will and hereby does move this Court to stay this case pending forthcoming and potentially outcome-determinative decisions in this case by: (a) the Federal Communications Commission (“FCC”); and/or (b) the Second Circuit Court of Appeals. As discussed in the Memoranda of Law, a stay of proceedings will promote the efficient administration of this case and conserve the resources of both the litigants and this Court.

A stay is warranted pursuant to this Court’s inherent power to control its docket, including when “a higher court is close to settling an important issue of law bearing on the action.” *Sikhs for Justice v. Nath*, 893 F. Supp. 2d 598, 622 (S.D.N.Y. 2012); *see also, e.g., Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936); *Range v. 480-486 Broadway, LLC*, 810 F.3d 108, 113 (2d Cir. 2015) (quoting *Louis Vuitton Malletier S.A. v. LY USA, Inc.*, 676 F.3d 83, 99 (2d Cir. 2012)). A stay is

also warranted under the primary jurisdiction doctrine, pending a ruling from the FCC. *See, e.g., Reiter v. Cooper*, 507 U.S. 258, 268, 113 S. Ct. 1213, 1220, 122 L. Ed. 2d 604 (1993); *Telstar Res. Grp., Inc. v. MCI, Inc.*, 476 F. Supp. 2d 261, 271, 275 (S.D.N.Y. 2007) (Koeltl, J.) (staying FCA claim pending the “FCC’s consideration of the relevance of its existing jurisdictional separations procedures” under the primary jurisdiction doctrine).

PLEASE TAKE FURTHER NOTICE that Plaintiff William Loftus’s opposing papers, if any, are to be served and filed on or before December 6, 2019; and Signpost’s reply papers, if any, are to be served and filed on or before December 16, 2019.

PLEASE TAKE FURTHER NOTICE that if either Party requests oral argument, the Court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

Dated: November 22, 2019

/s/ Kristapor Vartanian

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